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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,287	06/30/2004	Bradley J. Mitchell	03-0348	4286
44702	7590	05/04/2006	EXAMINER	
OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			COLLINS, TIMOTHY D	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/710,287

Applicant(s)

MITCHELL ET AL.

Examiner

Timothy D. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

NOTE: Because of the complexity of the present election/restriction requirement, the applicant is advised to carefully read the entire office action. If the applicant has any questions the applicant is advised to call the examiner before responding. Incomplete elections will be treated as non-responsive.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8 and 35-38, drawn to a cabin configuration system, classified in class 244, subclass 118.5.
 - II. Claims 9-30, drawn to a cabin configuration system, classified in class 244, subclass 118.6.
 - III. Claims 31-34, drawn to a cabin configuration system with handheld device, classified in class 244, subclass 118.1.
 - IV. Claims 39 and 40, drawn to a method of determining a configuration, classified in class 244, subclass 1N.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions IV and I/II/III are related as process and apparatus for its practice.

The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process.

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(MPEP § 806.05(e)). In this case the apparatus may be used in a process that does not require the objects to be identified.

3. Inventions III and I/II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require a plurality of interrelated controllers or plurality of transmitters and/or receivers. The subcombination has separate utility such as in a system which is not handheld and which is permanently attached to an aircraft or a train.

4. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require the wireless communication devices. The subcombination has separate utility such as in hardwired applications and those with card readers.

5. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. **NOTE: When invention I above is chosen, the following election of species must also be chosen from below.**

8. This application contains claims directed to the following patentably distinct species:

a. Species A: card reader positioning (like claim 1)

i. Sub-species (from claim 5)

(1) One of the information types must be selected for prosecution and claimed as a single species according to 35 U.S.C. 121 and should be claimed as such. For example information from IP address ONLY. The election should not be open ended. An open-ended response will be treated as non-responsive.

b. Species B: power line positioning (like claim 35)

The species are independent or distinct because these have separate uses and modes of operation.

9. **NOTE: When invention II above is chosen, the following election of species must also be chosen from below.**

10. This application contains claims directed to the following patentably distinct species:

- c. Species C: the receivers are in alternating arrangements (like claim 11)
- d. Species D: the receivers are at 180 degrees (like claim 12)
- e. Species E: the receivers are in columns (like claim 13)

When any of the above species of C,D, or E are chosen, the following sub-species must also be chosen from below.

- ii. Subspecies i: the receivers and transmitters are IR (like claim 15)
- iii. Subspecies ii: the receivers and transmitters are ultrasonic (like claim 16)

When the above are chosen, the below must also be chosen for Invention II.

(2) Sub-subspecies a: One of the amenity types must be selected for prosecution and claimed as a single species according to 35 U.S.C. 121 and should be claimed as such. For example a reading light ONLY. The election should not be open ended. An open-ended response will be treated as non-responsive. (from claim 26).

11. **NOTE: When invention III above is chosen, the following election of species must also be chosen from below.**

12. This application contains claims directed to the following patentably distinct species:

- f. Species F: One of the position determining devices must be selected for prosecution and claimed as a single species according to 35 U.S.C. 121 and should be claimed as such. For example a GPS ONLY. The election should not be open ended. An open-ended response will be treated as non-responsive.
(from claim 34).

The species are independent or distinct because these have separate uses and modes of operation.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

13. A telephone call was not made to request an oral election to the above restriction requirement because of the complexity of the present election and restriction requirement, therefore an election was not made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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14. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Collins whose telephone number is 571-272-6886. The examiner can normally be reached on M-F, 7:00-3:00, with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

20. [Signature] 5/2/06
Timothy D. Collins
Patent Examiner
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